the check be drawn on a bank, banker, or depositary for the payment of money makes it special or class legislation. However, this objection is without merit for the reason that the word "banker" is not a personal description, but is uniform as to all institutions on which checks are generally drawn. A violator cannot object because checks drawn on individuals other than bankers do not come under this requirement.[3]

As in the second element, there must be actual and positive proof of such absence of funds. The fact that the check in question was returned with "no account" written across its face is of course merely hearsay evidence of the absence of funds.[4]

In showing the last two elements of the offense, knowledge and intent to defraud, proof of the passing of other checks by defendant may be admitted as evidence, either of his knowledge of the state of his account or of his fraudulent intent.[5]

B. S. C.

Duty of Parent to Support Adult Child.—The San Francisco daily papers of September 21, 1912, noted the payment by Blitz Paxton, of $5000, the income of which is to be paid to his blind adult son, pursuant to the decision in Paxton v. Paxton.[1]

The case is of peculiar interest, resting upon a code section changing radically the common law and extending the statutory liability of parents for the support of an adult child beyond the limits prescribed by most of the States of the Union. By Section 206 of the Civil Code of California, "it is the duty of the father, mother, children of any poor person who is unable to maintain himself by work, to maintain such person to the extent of his ability."

In general, it is the duty of parents to support and maintain their minor children and although there has been some difference of opinion as to whether in the absence of statute, this is a legal or merely a moral obligation, the better view is that it is a legal one. At the present time, the legal duty is very generally imposed by statute. In the absence of statute, however, a parent is under no legal obligation to support an adult child.[2] The first statute to be passed providing for obligatory maintenance of children by parents, was passed in the reign of Elizabeth (43 Eliz., c. 2, sec. 6), and rather singularly, applied not only to minors but to indigent adults as well.

The Paxton case follows the only other California case involving this aspect of the code section. In Anderson v. Anderson,[3] the court held

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[3] People v. Russell, 156 Cal. 450; 105 Pac. 416 (1909).
[4] People v. Frey, 15 Cal. App. Dec. 177 (1912).
[5] People v. Bercovitz, supra.[2]

[1] 150 Cal. 667; 89 Pac. 1083 (1907).
[2] Mills v. Wyman, 3 Pickering 207 (1825).
[3] 124 Cal. 48; 56 Pac. 630; 57 Pac. 881 (1899).

that a wife was entitled to reasonable support and maintenance out of the property of defendant for herself and two children, one of whom was a daughter nineteen years of age, where it appeared that the daughter was residing with her and that, although of age, she was dependent upon her parents for support. The court presumed from the finding that she was "unable to maintain herself by work," that she was an invalid. The court quotes from Oregon and New Jersey cases,[4] which intimate that under peculiar circumstances arising from poverty or sickness, an adult child is entitled to support by a parent, cites Section 206 of the Civil Code as sanctioning these judicial intimations, and, on the strength of these intimations thus sanctioned, holds that in decreeing maintenance for the wife, under Section 136 of the Civil Code, the allowance may be made to cover the support of an adult invalid daughter under her mother's care.

M. O.

Estates of Deceased Persons: Distribution of Chose in Action.—Is a chose in action,—in litigation,—the proper subject of distribution? The Supreme Court of California, in the recent case of the Estate of Colton,[1] has ruled in the negative, with a discussion so brief that it would appear that the proposition was regarded as elementary. Is it so, in fact? It may not be improper to confess a doubt.

In the case in question a partial distribution of the estate of Ellen Colton was sought by the beneficiary, and ordered by the probate court. In reversing this decree the Supreme Court points out as an insurmountable obstacle to distribution that the greater part of the estate consists of a claim for $300,000 against the California Safe Deposit & Trust Company, which claim was then the subject of an action by the executor. One of the grounds for reversal was the proposition that the chose in action was not a proper subject of distribution under the circumstances. The court relies very largely on Estate of Ricaud,[2] quoting from it as follows: "If the assets are merely claimed to exist, and the right to them is involved in litigation, . . . then the estate is not ready for distribution." Admitting this to be true as a general proposition, we are yet unable to see how it applies to the situation presented in the Colton case. Here distribution is not sought of an asset "merely claimed to exist," but, on the contrary, of a definite property,[3] which is generally recognized in law as an existing asset.[4] It is

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[4] Fitch v. Cornell, 1 Sawyer 156; Snover v. Snover, 13 N. J. E. 261.

[1] Estate of Colton, 44 Cal. Dec. 468 (Sept. 27, 1912).

[2] 57 Cal. 421 (1881).

[3] Civil Code of California, §§ 654, 655, 954; Stahl v. Webster, 11 Ill. 511, 517 (1850); Dunlap v. Toledo etc. Ry. Co., 50 Mich. 470; 15 N. W. 555 (1883); Power v. Harlowe, 57 Mich. 107; 23 N. W. 606 (1885); La Rue v. Groezinger, 84 Cal. 281, 288; 24 Pac. 42 (1890); 32 Cyc. 669; 23 Am. & Eng. Ency. Law (2d ed.) 264.

[4] Hall v. Emerson, 11 La. 1 (1837); Pitt v. Jameson, 15 Barb. 310 (1853); Bishop v. Matney, 25 Ky. L. R. 1777; 78 S. W. 856 (1904); In re